IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 6717 of 2000
With
CRIMINAL MISC.APPLICATION No. 14812 of 2005

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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REDDY'S LABORATORIES LTD. - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

M/S TRIVEDI & GUPTA for Applicant(s) : 1,SINGHI & CO for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR KIRAN C MEHTA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/08/2007

ORAL JUDGMENT

1. Criminal Misc. Application No. 6717 of 2000 is filed by the applicant – original accused for an

appropriate order to quash and set aside the complaint being criminal case No. 634 of 2000 and the summons / warrants issued thereunder pending in the file of ld. Metropolitan Magistrate, Court No.20, Ahmedabad.

2. A criminal complaint has been filed by the respondent No.2 herein – original complainant in the Court of ld. Metropolitan Magistrate, Court No.20, Ahmedabad being criminal case No. 23 of 2000 against the applicant - original accused for the offence under sections 406 r.w. 409 of the I.P.C. alleging inter alia that some shares of the applicant No.1 company were purchased by the complainant, however, the same were not transferred in their name and consequently, whenever the bonus shares were declared and issued, the same were not issued in favour of the original complainant and therefore, it is alleged that the applicant has committed offence under sections 406 r.w. 409 of the I.P.C. It appears that in the said complaint, the ld. Metropolitan Magistrate, Court No.20, Ahmedabad has issued summons upon the applicant for the offence punishable under sections 403, 406 r.w. 114 of the I.P.C. and therefore, the applicant has preferred present application under section 482 of the Cr.P.C. to quash and set aside the said complaint.

3. Today, when the matter is called out, respondent No.2 – original complainant is personally present in the Court. Shri Mihir Thakore, learned Senior Advocate appearing for the applicant as well as the respondent No.2 – party-in-person – original

complainant have jointly submitted that the parties have settled the disputes and the applicant with a view to put an end to this litigation as well as other litigations, agreed to pay an amount of Rs.11,34,981/- by demand draft in favour of Nila Bipinchandra Shah. It is also reported that the said demand draft has been handed over to the respondent No.2 – party-in-person and the respondent No.2 – party-in-person has also admitted having accepted the said demand draft. It is submitted that on payment of the aforesaid amount towards the shares/bonus shares, etc., nothing is remained to be paid to the respondent No.2 and/or his wife. The respondent No.2 – original complainant has also submitted that in view of the settlement entered into between the parties, he has no objection, if the complaint is quashed and set aside.

4. Even otherwise, considering the averments and allegations in the complaint, they are purely of a civil nature / civil dispute and in fact, for the same, an appropriate remedy was to file a civil suit before the competent civil Court. Instead of filing the civil suit, the respondent No.2 – original complainant has converted the civil disputes into Criminal proceedings. Said criminal proceedings is nothing but an abuse of process of law and to use criminal proceedings for recovery of the amount. However, considering the over all facts and circumstances of the case, this Court is not considering the same in detail and suffice it to say that on bare reading of the complaint, it does not disclose any offence under sections 403, 406 r.w.

114 of the I.P.C. and it cannot be said that the applicant has committed any offence as alleged in the complaint. This Court is of the firm opinion that to continue criminal proceedings by way of aforesaid criminal case would be nothing but abuse of process of law and this is a fit case to exercise powers under section 482 of the Cr.P.C. to quash and set aside the impugned criminal complaint.

5. For the reasons stated above, application succeeds. Criminal complaint No. 634 of 2000 pending in the Court of ld. Metropolitan Magistrate, Court No.20, Ahmedabad and the summons issued by the trial Court therein against the applicant for the offence under sections 403, 406 r.w. 114 of the I.P.C. is hereby quashed and set aside. Rule is made absolute to the aforesaid extent.

6. In view of disposal of main application, no orders in Cr.Misc. Application No. 14812 of 2005.

(M.R.Shah, J.)

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